

**SEWARD / BEAR CREEK FLOOD SERVICE AREA  
REGULAR BOARD MEETING  
SEAVIEW PLAZA BUILDING, SUITE 122  
MEETING MINUTES  
19 April 2010**

**A. CALL TO ORDER**

The meeting was called to order at 7:00PM.

**B. ROLL CALL**

BOARD MEMBERS

Bill Williamson, Chairman  
Bob White  
Tena Morgan  
Walter Sedlik  
Matt Hall

STAFF

Christina Stauffer  
Administrative Assistant

Terry Federer – absent excused

BOROUGH STAFF

Dan Mahalak, Gilman River Center Hydrologist  
Sue Wilcox, KPB Mayor Special Assistant  
Brenda Ahlberg, KPB Community & Fiscal Projects

**Chairman Bill Williamson** explained to the board and those in attendance how the meeting will be organized. He said there will be a public comment opportunity for any subject other than the navigability and material sale issue that will be discussed later in the meeting. For the navigability discussion we will bring Scott Ogen and the folks from the Department of Natural Resources (DNR), Mayor Carey and myself up to the board table so they can answer questions. Everyone will get three minutes and we ask you to keep things as civil as we possibly can.

**B1. ELECTION OF VICE CHAIRMAN**

**Bill Williamson** called for nominations for Vice Chairman.

**Walter Sedlik** nominated Tena Morgan.

**Tena Morgan** thanked Walter for the nomination but explained that she does not feel that she has enough experience for the job. She went on to nominate Bob White.

**Bill Williamson** called for further nominations. There being none he asked for a vote.

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Bob White was elected unanimously as SBCFSA Vice Chairman.

**C. APPROVAL OF AGENDA**

**Bill Williamson** called for approval of the agenda.

**Vice Chairman Bob White** moved to approve the agenda.

The motion was seconded and unanimously approved.

**D. APPROVAL OF MINUTES**

**Bill Williamson** called for approval of the minutes from the previous meeting.

**Bob White** moved to approve the minutes.

The motion was seconded and opened for discussion.

**Tena Morgan** pointed out a typo on page 12.

**Bill Williamson** called for a vote on approval of the minutes as corrected.

The motion to approve the minutes as amended was approved unanimously.

**E. PRESENTATIONS**

- **Mayor Dave Carey, Kenai Peninsula Borough**

Mayor Carey greeted everyone and said that he tries to conscientiously respond to the public's concerns. He stated he had prepared remarks. Mayor Carey summarized the events that have led up to tonight's meeting beginning with the SBCFSA letter he received vigorously stating their concern regarding possible future actions by the borough in dealing with the state. He referred to a timeline that was part of the meeting handouts. The Mayor said he wanted to assure everyone that he has signed nothing and has not yet formally responded to the state's letter regarding navigability. He mentioned that he has traveled to Juneau and Anchorage a number of times to meet with the Governor and DNR officials on this issue and has attended several SBCFSA board meetings to receive comments. Mayor Carey reiterated his administration's priorities to seek short and long term solutions to the gravel, flooding and navigability issues in the SBCFSA and to re-write borough code 21:18 to protect habitat along borough water bodies. He went on to say that he agrees with the comments made in the SBCFSA's April 6<sup>th</sup> letter. Mayor Carey summarized the

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timeline including letters and meetings that have led up to the current proposed material sale contract. He also said that the state will continue to work with the borough to craft potential language that could provide statutory resolution of this long standing issue. The Mayor believes that we can work with the state to find an equitable solution. Colette Thompson from the borough legal department has suggested that the contract could be signed with the language “under protest” to keep open the option to disagree with the navigability determination. She also made other suggestions and comments on the contract and the objections of the SBCFSA. Mayor Carey stated that he has directed the KPB to take steps to work with the US Army Corps of Engineers (USACE) to approve a scope of work that will provide assistance in the production of a comprehensive water management plan for the SBCFSA. The borough should also follow up on their application for a FEMA Hazard Mitigation Grant requesting money for a risk assessment for the service area and for a culvert and catchment basin project on Lowell Point. The Mayor reported that he was calling a Summit for Seward at the end of September and has personally invited the Governor to attend. All statewide candidates and local assembly candidates. He said he also hopes that the City of Seward will be a major partner in this effort. One primary focus will be education to all regarding navigability, gravel and property rights. The state’s determination of navigability on Salmon Creek is due by September 2010. We need to bring much more attention to the state, federal and local stakeholders regarding the seriousness of Seward’s flood issues. He went on to say that he has approved the SBCFSA FY2011 budget but that he was very concerned about a comment regarding lack of enforcement made on the budget submission because there is no point in having codes if they are not enforced. The borough must do more to remedy this perception and will work with the SBCFSA to develop necessary enforcement mechanisms. He will also be recommending that the board set up a legal reserve account to partner with the borough on possible legal remedies and actions. He also asked the board to be a sponsor of the Summit in Seward. The Mayor finished by saying that there is no more basic, fundamental, constitutional right of all Americans than the right to own and use personal property. This ownership is being put to doubt by the state and this is not tolerable. The current cloud over clear titles for lands affects possible financing and the credibility of borough plats and assessments.

- **City of Seward**

**Christy Terry, Community Development Director for the City of Seward** reported that Seward Planning and Zoning will be holding an appeal hearing regarding a recently denied floodplain building permit tomorrow night. She asked once again that this issue not be discussed by the board as there is a P&Z commissioner on the SBCFSA. She also stated that packets for this meeting are available electronically or hard copy available at the library and City Hall. Christy announced that the Community Development Department will be closed next week

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because they are actually moving from the Petro Plaza to the second floor of City Hall and we hope that this will make it easier for our constituents to access their services. The FEMA FIRM maps for inside the city limits are being displayed at City Hall and in the Council Chambers and would like comments on those updated maps by April 29<sup>th</sup>. If there are any questions you can reach me at 224-4020.

**F. PUBLIC COMMENTS**

**Bill Williamson** asked for public comments for anything other than the material sale and navigability issue.

There was none at this time.

**G. BOARD'S RESPONSE TO PUBLIC COMMENTS**

There was none at this time.

**G1. SALMON CREEK MATERIAL SALE/NAVIGABILITY**

Representatives from the Alaska Department of Natural Resources, Scott Ogen, Natural Resources Manager, Christina Nahorney, Natural Resources Specialist and Clark Cox of the DNR South Central Regional Office were seated at the front table. Seated with them was Mayor Dave Carey and Bill Williamson.

The representatives from DNR introduced themselves.

**Chris Nahorney** introduced herself and stated that she is the one who worked on the Preliminary Decision, the gravel sale portion. She reminded everyone of the public comment period and told everyone that there are comment forms available and a comment box. She explained that comment forms can be mailed, e-mailed or faxed to her by April 30<sup>th</sup>.

**Scott Ogan** stated that he is the manager of the Public Access Assertion and Defense Unit and that he would be leading the research on navigability and that he has the delegated authority of the DNR Commissioner to make navigability determinations but ultimately it is the commissioner's call.

**Mayor Dave Carey** introduced himself as borough mayor.

**Clark Cox** said he is with the DNR, Division of Mining, Land and Water and that he works with Christ Nahorney at the Anchorage Office.

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**Dan Mahalak** introduced himself as hydrologist for the SBCFSA.

**Mayor Carey** introduced Sue Wilcox from his office and said she had handouts of his presentation and of today's letter from DNR.

**Bill Williamson** requested that staff describe the question and answer process.

**Christina Stauffer** explained that she would call out the names from the sign in sheet of those who had indicated they wished to speak. If anyone who did not indicate a wish to speak should desire to do so they would be given the opportunity.

**Scott Ogan** said he wanted to respond to some of the things the Mayor had said. The DNR has not done a scientific analysis on Salmon Creek navigability. Until this is done any assumptions tonight may or may not be correct. The DNR has a hydrologist coming down to Seward along with a riparian boundary specialist so that we understand more about the river and can make a defensible, scientific and fair navigability assessment. At this point a determination of navigability of Salmon Creek has been made below the confluence with Lost Creek. Lost Creek is also marked Salmon Creek where it crosses the highway. Navigability is defined as being capable of travel for trade or commerce. Mr. Ogan stated that these determinations were based on case law. A case involving the Gulkhana River where the federal government had determined a waterway to be non-navigable but the state asserted that it was. This assertion was supported by the 9<sup>th</sup> Circuit Court. To determine navigability you must be able to float a 1000 pound raft that a guide could use for tours. If the creek meets this standard it will be compared to the rest of the rivers we have navigability determinations on so that we can make a fair and consistent determination. We will be spending some time in the field and we might see you out on the river.

**Clark Cox** stated that what the regional office will do, where he and Chris Nahorney work is use the information that Scott's group comes up with. If it is navigable then we have a managerial role to play there. Otherwise, unless there are state owned uplands bordering on the creek we would not have a permitting role there. We are waiting for the navigability decision to come out to see if any additional permits are needed or not on that stretch of the creek.

Staff read from the sign in list.

**Randy Stauffer** started by saying he has been on the SBCFSA board for over 5 years and had only resigned two weeks ago since he had moved outside the city. Randy stated that he has been involved in this issue from the first time the board asked for exemption from the state gravel fee and navigability determinations for Seward streams going back five years. He went on to say he appreciated the Mayor's

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comments. He spoke to the panel saying he had in his hand the minutes of a committee meeting of the Alaska Resources Management Committee from 2004 dealing primarily with Senate Joint Resolution No. 27. This committee was chaired by Mr. Ogan. During this meeting, the author of the resolution, State Senator Therriault made recommendations to the Committee that they avoid future problems by letting property owners on navigable rivers know that their property titles could be in error. Senator Therriault said it was critical to give notice to these property owners. Most private landowners here found out about the navigability claim because of gravel issues when they applied for a permit and the recent Preliminary Decision letter. DNR should have let people know much sooner. That Committee meeting was in 2004. It is now 6 years later. When will this notice be given? Randy stated he wanted to say one more thing, people have been calling the DNR offices over this announcement and have been told that this whole problem came about because of the flood board. The flood board did not create this issue. You have heard that this problem is an offshoot of the state's battle with the feds regarding title to submerged lands that has been going for about 45 years. This is clearly a state generated issue which Mr. Ogan has known about from the beginning as chair of the state resources committee.

**Scott Ogan** responded that he did work on this bill and a consequent letter to the native corporations. It is a battle mostly between the state and the feds. There are a lot of rivers all over the state where the state has issued mining permits on rivers that we believe are clearly navigable that were determined non-navigable by the feds. Their definition of navigability changes quite a bit from case to case. There is a lot at stake. We will be consistent and apply those standards state-wide. State ownership of submerged lands in National Parks and other federally claimed land are in dispute. Most Alaskans would like to see state control of these lands. Mr. Ogan stated that you can mine all you want inside a wildlife refuge as long as you only use your hands and a pan. There have been incidents on streams that, to my mind, are clearly navigable and the feds disagreed. People want to make an honest living and they have a federal officer saying no. We are fighting these battles all over the state. We have to be consistent, that is all we can do.

**Steve Schafer** thanked Mayor Carey and his staff for responding as well as they could to this letter seeing as it is dated today. Steve reported that a week and a half ago he had made a trip to Nenana and had spoken with Jack Coghill. He asked Mr. Coghill if it was ever the intent of the state constitution to take patented land on river bottoms and he said "no". He also then quoted Title 8, Section of the state constitution which talks about just compensation. He further quoted from the April 19<sup>th</sup> letter from Wyn Menefee, DNR, "the subsequent nature of a meandering stream typically changes the ownership but not the ownership of the stream bed." Then later on in the letter "thus the title to submerged lands moves with the meandering river as defined by the ever changing river bed. The entire area of an active alluvial fan is

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generally considered river bed for title purposes.” This whole valley is an alluvial fan. Does that mean that the state owns everything in this valley? Is the federal government at fault for having patented land in river bottoms? Does that mean the federal government has to pay people like my father who have patented land for that land? Who is going to pay for that? Something Wyn Menefee said to me in a phone call is that there have been a lot of erroneous land sales. I brought up that there has been land platted, sold and homes built. Who will pay for this if there is an error? By you people coming in here and redefining navigability, are you going to pay for people’s houses basically being left on a substandard lot. If you only take half their lot there will be people with less than 40,000 square feet. What are you going to do about that. I respect that you are trying to open up these areas for mining but you need to respect property rights of people who have owned land here since way before statehood.

**Scott Ogan** they would have answers to some of those questions later on this year. We are in court on these very issues, two other cases that should clarify and settle a couple of the positions that the state has taken. I personally have great respect for people’s private property rights. If it was my personal decision I would just as soon we find it non-navigable because it would be easier on you guys and easier on me. This is all part of a very large picture that will affect many things in the state and we have to be consistent.

**Steve Schafer** asked if it was the state’s position now that, as these streams meander back and forth, if it is navigable in one location and then moves to the other side of the valley, you are claiming ownership in both places?

**Scott Ogan** replied that it is not just the state’s position, it is very well established case law. Scott brought up the book “River and Lake Boundaries” by James Simpson. It is a very extensive study of all the case law from the civil war era on who owns what river beds and things that have happened in rivers. This includes avulsive events, accretion and reliction. It is not something we are pulling out of our hat or because we are trying to be bad guys. We have to look at what the courts have said and apply that case law consistently and fairly. The chips will fall where they fall. I need the best information I can get on these streams. If there was a major flood so that it was one place at statehood and it moved suddenly and went somewhere else because a flood. This is all information that we need and we will sit down with our riparian rights specialist and a survey unit and try to figure out where the boundaries are. Before I do any of that we need to figure out if it will stand the test of navigability. There is a river called the Nation River. When the USGS went up to survey the Nation River they hired some hardy fellows to line and pull boats up those rivers to supply the USGS survey group. It was tough. It took them 30 days. They literally had to dig gravel bars out to get the boat across. It was really a rough go. But because it was capable of being used and was, in fact, used for travel, trade

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and commerce, the state litigated and the 9<sup>th</sup> Circuit upheld it as navigable. BLM said, no they were too small and were not navigable. I could wade across the stream in my Extra Toughs and you could toss a pebble across it. That is the smallest river that the courts have agreed are navigable.

**Steve Schafer** said that the question, more pointedly was, if the creek has been navigable at one time and moved, are you still claiming ownership of the land where it was.

**Scott Ogan** replied that if it is determined to be navigable in fact and the river moves because of accretion or reliction, natural and perceptible change in the course, then the title to that river stays with the state. I have a lot of constituents in Palmer that I represented on the Matanuska River whose houses fell into the Matanuska River those became state property. That argument is very well established and settled in case law. Someone in the audience spoke up to ask if the people on the Matanuska had been compensated and Mr. Ogan replied, no.

**Jim McCracken** stated that he had previously been on the flood service board. When he was on it they started some of these questions because we saw how extreme this could be. He said he has also been on the Japp Creek Task Force, the Resurrection River Task Force and just got done with the borough Floodplain Task Force. You seem to hang a lot on case law. I have some questions about that case law. The first one is about the Gulkhana River which is what set precedent for most of these things. Under the Court of Appeals part of that case, Court of Appeals found that moderate use of the Gulkhana River for hunting, fishing and sightseeing tours amounted to commercial use and that the physical characteristics of the river have not significantly changed since 1959 provides conclusive evidence that the river was susceptible to commercial use at statehood. That is the part I want to come back to. I have only lived in this valley for 50 plus years and I have been in and out of every creek around here and I assure you that they have all moved considerably. This ruling said that since it had not changed since statehood the court found in the Gulkhana case for the state. Our streams change. How does that affect you?

**Scott Ogan** replied that this was something that would need to be sorted out with the experts as it is way beyond his pay grade and level of expertise but, yes, this is a real issue. What I need to help us make that determination is information about what has happened with this stream. If anybody has newspaper clippings to point me to something so we can sort this out. We have to consult with our attorneys to figure out what those changes are. If they are natural changes the title stays with the river. If they are avulsive events which suddenly and perceptively altered the river, that fixes the title.

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**Jim McCracken** said that he appreciated the comments but that as he had only three minutes he wanted to address the Matanuska River. Jim repeated the determination of the Court of Appeals that their decision was based on the fact that the river had not significantly changed since 1959. On the Matanuska River, both state and commercial rafting operations are significant to establish navigability. The administrative law judge who heard the case recommended that the Matanuska in south central Alaska be found navigable. However, the Secretary of the Interior, over the state's objections assumed jurisdiction of the case and recommended the decision. As of now, no decision has been taken on this case since then. Is that correct? This is on your website.

**Scott Ogan** stated that if it is on the website he has to assume it is correct but I know the attorney that litigated that case and we consider it navigable.

**Jim McCracken** added, it is on your website, Scott, and that says it is not.

**Christina Stauffer** said that there were no more names on the sign in list with clear indications of a wish to speak.

**Bill Williamson** asked for hands if anyone else wished to speak.

**Glenn Schiff** explained that Salmon Creek goes right through his land. I bought this property after you guys started screwing around with this idea up there. Why did you allow me to buy property, pay a mortgage on and pay taxes on it for this period of time. Why did you not say when I bought this land that the state owns this much and you do not pay for that part, you just pay for whatever your determination is. Are you guys going to pay me back for that? Are you going to reimburse me somehow for what I have been laying out? That is what I want to know.

**Scott Ogan** asked where on Salmon Creek did Mr. Schiff live.

**Glenn Schiff** replied that he lives right at the Salmon Creek Bridge on Nash Road. He has property on both sides of the creek.

**Scott Ogan** said if it was tidally influenced that there is no question that the state owns it. That is not even a debatable point.

**Glenn Schiff** stated that the tide does not affect his property.

**Scott Ogan** said that it is regrettable that this has gone on this long and one of the things he was brought in to do is to start dealing with the issues as it has been deferred for many years, frankly since statehood. Fifty years later we are still trying to sort this issue out. I understand your frustration and anger but before we all get too

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worked up, let me do the research and all I say is that I will be as fair and consistent as possible and this will be fairly reviewed by our attorneys and by our riparian specialists and I will be happy to bump this one to the Commissioner's desk for his signature and approval. Right now we have a case going with a gentleman who had pre-statehood patented land. When we first started on this job we figured that if it was patented before statehood that it was game over. There are a lot of people who had the patent. But that is not what our attorneys are telling us. I think we will have a firm answer to that later on this year after this other litigation.

**Glenn Schiff** commented that if the state has been thinking about this for a while, there has to be some contingency. Are they going to pay us back our taxes. Are they going to pay me back my mortgage I have been paying on. Or is it just you are out of luck, dude? Someone has to have thought about this. Otherwise you should get off the board and go get a different job.

**Scott Ogan** replied that his role in this is to figure out if it is navigable. Those questions are well over my pay grade to answer.

**Rolf Bardarson** introduced himself and said he lives in Old Mill on Lost Creek. He lost a house there in the 1986 flood and has taken several hits over the years. Rolf said he figured he had dumped a couple hundred thousand dollars into his house. What I am trying to find out is what is going on with the buyout. We were told in February that we would be receiving information and we still have not.

**Bill Williamson** asked Dan Mahalak to address this.

**Dan Mahalak** explained that this buyout is an NRCS project. We are about a month and a half behind. The prioritization has been done and you should be receiving letters shortly. The project manager is Marcus Mueller over at the borough. You can call him and get your priority status.

**Rolf Bardarson** said that he had called Mr. Mueller and that he had been told the same thing. What he also was told is that the end result would be the same. We will be out of our house by December. What this is doing is keeping the end date the same, when we have to be out of our house. If it goes through, there is no method for allowing someone to be in the house longer so that they can actually have a house to move in to. I know how long it takes to get things done. I have been working on a permit for property for 4 years now and I still do not have a permit. I keep thinking that in December I will be out of my house and have a check for the house. It is not a good time to be out on the street. I would just like to see more information on that if possible. My wife is going crazy not knowing what the future is.

**Bill Williamson** told Rolf that the board will try to assist him on that.

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**Mayor Dave Carey** stated that there has been no final decision on any of this. Once there is a decision it is totally voluntary. Once the federal government decides which of the tracts from the prioritization that they are going to start with they will make an offer to two or three. If one of those turns it refuses it will move down to five and six. It is absolutely voluntary and you can decide if you want to move the house or just sell it. I just do not want you to think that you are being pushed out in December no matter what.

**Karla Backlund** said she had spoken with Clark Cox on the phone about patented land. What I gathered from this is that Metco has a patent and they are on a river that has been declared navigable. Because of the patent, they still own the property. I pulled my patent and it is exactly like Metco's. Metco's patent was signed by Woodrow Wilson, mine was signed by Herbert Hoover. According to the map that Dan has it looks as though a lot of the private property here has been patented from way back in that time frame, from 1919 on up. Based on the precedent of Metco's, I think maybe we should get a borough legal team to look into this on our behalf and see where we are going to stand so that we might have a decision one way or the other based on the precedent. Metco seems to carry a lot of weight. Is this correct?

**Clark Cox** agreed that they had spoken and that is what he said. But he added that Scott has said that this may have been incorrect. I might have been speaking out of turn there. According to the mining law that is in our letter from our chief of operations is something that I was not aware of. Metco may not have what I thought they have. We have not had a lot of questions from down here. We do not do a lot of gravel sales down here for obvious reasons. I was trying to help. I may have misspoken. I apologize. We are all in this together.

**Karla Backlund** asked, so you say that Metco's patent may not be recognized.

**Scott Ogan** answered that, yes, this is a possibility.

**Bob Venable** was recognized. He said he has been listening to some of these discussions talking about the natural meander of Salmon Creek. He has not heard anyone yet address unnatural causes for Salmon Creek to shift due to ill administered permits and lack of enforcement. The Mayor did address doing better on enforcement. What about making people whole who have suffered considerable losses due to poorly administered and unenforced permits.

**Clark Cox** agreed that man-made effects can also affect tidal boundaries. We talked about erosion, avulsion, earthquakes but man can affect boundaries as well.

**Scott Ogan** said that he has remarked around the office that there will be a chapter in Simpson's textbook written about Seward at some point. It is literally one of those

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“oh yeah, look at this one.” There is so much activity in those creeks that they do not look like the original creek beds. What I will be doing is, we have already ordered the 1955 photos where the USGS shot most of the state from the air. That is how they drew most of the maps. We will look at what it originally looked like. We have to do a lot of research on avulsive events, who has been in the river and altered it, what floods might have altered it. Best case scenario, if you can show me something so I can say that it was a big flood and because of that big flood the river moved over here and ran through everyone’s yards. This is information that could be helpful to you and helpful to me. Did the tidal wave affect it? I just have to a fair and consistent determination. That is all I can do. Riparian specialists around the nation will be interested in this one. It is really quite challenging.

**Bob Venable** added that right now the borough tells us that we cannot get in the water and defend our own property from natural events. Then you come along and tell us that, in fact, it is your land. Now we are being asked to wait until September and all this time the erosion damaging effects continue and our hands are tied. We need some answers.

**Scott Ogan** stated that if he was king for the day he would tell you to get in there and do what you need to do to protect your homes. I am not a big fan of bureaucracy. One reason that I got into public office is to try to make some of this make sense. There is concern over the juvenile salmon population but what about the juvenile human population. That is a personal view, though, and not an official DNR position.

**Carl Norman** introduced himself. Carl said he wanted to follow up on Steve’s question. He did not get a clear idea there on the meandering creek. Does this involve the riparian bank of the entire water course, no matter where it has changed historically or the current riparian bank of the creek?

**Scott Ogan** replied that this is so complicated that it is mind numbing at times. If it is determined navigable for title purposes, for ownership purposes, and the state owns the river bed and that river bed naturally moves and it is not a sudden or avulsive event or man-made avulsion, the title of the land stays with the river.

**Carl Norman** asked if that was the entire historical river bed.

**Scott Ogan** replied that if it is an alluvial fan, then yes. In Kotsina there is a mile wide delta. We are arguing if a dike was built up river to protect the road and created a man-made avulsive event, do we own the whole delta. That will be answered probably, I would not be surprised, by our supreme court.

**Carl Norman** stated that we have been getting some pretty heavy rain lately. If this keeps on another week and a half or two weeks and gets a little more intense, we are

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going to be looking at some flooding issues right here immediately. What do we do then? Can we fix our own or are you going to fine us for it. Are you going to fix it or is the borough going to fix it? How does that work?

**Clark Cox** responded saying that DNR does not have citation authority or enforcement authority. No one is coming down and writing you a ticket. We have not for the last 40 years. We want to get this resolved as well. We want to work with the borough, with the community to work through this. I am not going to tell you to just go down and do what you have to do even though I know that is a great disappointment. That is the timeline at this point.

**Scott Ogan** added that he would really caution people that Fish & Game does have authority and you want to make sure you are not in the river when the fish are running.

**Carl Norman** said that up on Kwechak there are no fish. The creek does not even run year round. Sometimes it is three feet wide and a foot deep and other times 50 feet wide and six feet deep. Does it have to be navigable all year round to be determined navigable?

**Scott Ogan** answered that it only had to be navigable during the usual time for commerce.

**Christy Terry** pointed out that the borough does have floodplain maps and development authority.

**Matt Gray** mentioned that earlier Mr. Ogan had described the definition of a navigable river as being able to float a 1000 pound raft. Is that upstream and downstream? I am also just curious, are all property sales or determinations on hold because of this?

**Scott Ogan** replied that the 1000 pound standard is for floating down the river and not necessarily going up. The DNR is not going to put a lien on your property but it would be fair to say that there are some clouds on people's property until this is cleared up. I wish I had a different answer.

**Bill Williamson** asked if there were any questions from board members at this time.

**Tena Morgan** addressed the panel, you keep stating that you have make a consistent, whatever is across the board statewide. But you have also stated that Seward is different. What I hear from you is that whatever you decide throughout the state is going to apply to Seward whereas we all know that it cannot really apply in Seward

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because it is different. You cannot really go by what you do in Soldotna and apply it here.

**Scott Ogan** responded that every river is being looked at now on a case by case basis and it is a subjective science. If you read the case law, it definitely talks about each river. For example, I could say that any river deeper than the Nation River at the border and wider than the Nation River at the border is navigable. That is one of our criteria but we have to take a look at everything and make that determination.

**Tena Morgan** pointed out that Mr. Ogan had repeated over and over that he had to be consistent about this across the board.

**Scott Ogan** said he has to be fair and consistent about it and make sure that we have a defensible decision. We take into account the differences. For instance, we know that the Nation River is unequivocally navigable because those guys hauled those boats up there. But here, there may be somebody that uses the river to get something up the river to buy or build. The biggest subjective part of it is the susceptibility issue. If the river is susceptible to navigation. It does not have to be navigable in fact or even have a history of navigation but if it has the physical characteristics to be susceptible for being used for that then we find it navigable. A lot of the rivers we look at are really remote. We will helicopter in to these rivers and we will put in with our rafts and we will get in an measure, do cross section profiles to figure out how deep it is and what the flows are.

**Tena Morgan** remarked that she did not believe that any of our streams are used for commerce. There is no white water rafting. We do not do like they do on the Kenai and have guides that go up and down the river. This all stems from our wanting to do some flood prevention by removing the gravel. We have no mining. This is strictly about Seward being able to do some flood control. The situations you have described are not what we have here.

**Scott Ogan** said that this is what makes his job tough. It is not going to be an easy call and I am going to have to apply everything as a whole and take a look at it and see if it is a consistent and defensible decision. I know how much is at stake and we will not just be arbitrary.

**Walter Sedlik** had one question. The discussion is really interesting and enlightening. The question he keeps going back to is on the letter to sign an agreement with the state over the sale and purchase of gravel for flood mitigation purposes in Seward. The Mayor's suggestion that we amend a protest to that. Has that already gone to draft?

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**Chris Nahorney** replied that the preliminary decision is out for public notice through April 30<sup>th</sup>. On May 1<sup>st</sup> I have to address all comments. One of the things that I wanted to talk about, some of the comments I have received involve pricing. Pricing is under statute. There is no way that I have authority to waive the 50 cents. I believe the mayor is working with our Deputy Commissioner to try to change those regulations. That is something that will not change in the decision. We did put in delayed point of sale so that if gravel is extracted we have agreed that it can be stored on state or borough land. Then if it is used for beneficial purposes by a third party we would entertain contract proposals. That is not something I have the ability to change.

**Walter Sedlik** said that the point he was getting at was that the Mayor stated earlier that one of the alternatives for agreeing to the contract with the state is that we do it under protest so that we do not give the state the impression that we are buying off on the navigability issue. We have seen the proposal. Is there a draft of the contract.

**Chris Nahorney** responded that it will be a material sale contract if you chose to sell the gravel.

**Clark Cox** asked if this was a question for the borough or for the state. He said that from our side it is all above us. If that is the action the borough chooses to take, that is something the directors above us will need to decide how to allow it to move forward. We are certainly not holding a gun to anyone's head to sign anything.

**Scott Ogan** added that whether the borough chooses not to sign or to sign under protest, we do not do that real often.

**Mayor Dave Carey** stated that the borough's goal is to ensure that at signing it does not have some adverse effects that we are not aware of. We have not made a decision. Our legal department is very much working on it but based on the letter that came from this board and the concerns that they had it would seem to me that, even though you have been dealing with this for some years now, there is some real uncertainty. One thing I want to be sure of is that I do not end up next week having to apologize to you for being wrong. You talk about the borough saying "no". I am talking about being careful. We do not want to tell anyone they can do something if they cannot. In our discussion of signing a permit or contract are very much considering having an addition to it saying that, in signing this we are not giving up any rights to other things. That is the idea of signing under protest. We have had what I truly think are some good meetings with DNR. I am trying to move forward to do as much as we can before decisions are final. Besides final decisions can always be appealed. What I want to be sure of is that I do not sign that gives up the right to any single person over here or any part of the borough to any future rights on their property.

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**Chris Nahorney** said she wanted to comment on the whole process, looking at the timeline. She said she took over her position in October 2007 and started working in February 2008 with the borough becoming the applicant for a material sale contract. A material sale contracts are considered as a disposable interest and therefore I am required under law to give public notice in writing decisions. This is the first step that was never done in all the problems that you have had with flooding. I think we have gone through one hurdle already by getting a decision, putting it out for public notice and addressing the comments. We have abided by the law on that.

**Bob White** stated that he had read the book Mr. Ogan had mentioned previously as well as this book, "Putting the Public Trust Doctrine to Work". On page 19 of this book it specifically speaks to exceptions to what lands were ceded to the state at statehood. My title gives me all rights. I own to the center of the stream on my property. You will not be allowed to trespass on my property without consequences of law. Page 23, the state's ownership cannot conflict with federal law and previous titles. Conveyances as you referred to earlier with the native corporations post-statehood so that those waters would have been ceded to the state at statehood. The lands here were ceded to private ownership prior to statehood. I really do not think you have a claim there. Page 171 it discusses navigable for fishing without owning the bottom. I do believe the state has an interest in the water here because it is a resource that carries our fish. There is a management issue there. But there is a separate issue as to actual ownership of the bottom which was given and signed over by multiple presidents before statehood. Page 180 speaks about conveyed lands as well. There is also a line about state powers and duties. One of those is to tell people what they do not own. That is from statehood so that you are a little bit behind the curve here on that. I would like to say, because I know we will have to fight this in state court, we do not have exactly a fair balance in the fight. You have a state court and a state judge who will say most anything. It is the same thing with the 9<sup>th</sup> Court of Appeals. So many of the times case precedent and case law and what the constitution actually says is thrown out the window and rewritten by some local judge somewhere who says well this is what I think. Therefore you are stuck under someone's heel again. If the state were to prevail in navigability in Resurrection Bay it would be in the state's best interest to do away with any commercial value to gravel in this area. There is no commercial value to gravel. It just does not exist. The finished product and the transportation of it, yes. There is so much gravel burying everybody here that we cannot keep up. We do not have the money or the resources. In the meeting just before this one we were discussing that with the borough grant writer. There is just so much of it here it is just not like any other place on the planet that I have ever been. I have been here almost 38 years.

**Scott Ogan** agreed that these rivers here are prolific gravel producers. We are very well aware of that.

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**Bob White** went on to say that there has been for the last two years a group from Hope who come down here and do two or three trips down Resurrection and it is supposedly navigable. They spend about 80 percent of their time dragging two passengers in their raft across gravel bars because they just cannot float it. That is the biggest river in the valley. One final question, when we do a gravel extraction we have to get permission from all of the land owners. We are digging from private property. We are not digging from state land. We are not digging from anything other than privately owned land. We have to cross private property and we have to excavate from private property. The last time we did that the burden was \$11 per cubic yard and with 1.5 million cubic yards of gravel moving down the system each year it is just impossible to keep up with. We have to get that permission from the landowners. Are you going to get that permission from all the land owners in the valley before you proceed with your trespass?

**Scott Ogan** replied that they will need to get permission to access the river. Under state law and under the public trust doctrine, the public has the right to access waters determined navigable by the state, according to AS38.05.965.15. That is the determination. The constitution is pretty clear. The public has the right to access any water determined navigable as defined by the legislature. The legislature has defined any navigable water, not for title purposes but for public trust doctrine purposes for access as any water that is useful for recreational purposes, has fish that swim in it. That is where there might be a misunderstanding of the statement that the state loosely defines any water with fish in it as navigable. That is true for access and public trust purposes. There is no act of trespass by any citizen below the ordinary high water mark on any river defined navigable under that definition in the State of Alaska. We will stay in the riverbed. We will look for access to the river. If people do not want us to cross their property, we cannot get to the river and we cannot get this sorted out.

**Matt Hall** a lot of people here are concerned. We all thank you for coming. I think it is very important to talk face to face to try to work this thing out.

**Steve Schafer** wished to comment on Mr. Ogan's statements regarding being fair and consistent. Fair and consistent when it comes to gravel prices, 50 cents per cubic yard which is quoted in your document as less than market value. I have seen consistently around here 50 cents per yard being the norm, even to the state. On university land we used gravel and had contracts for 50 to 60 cents per yard. As far as I am concerned that is a fair market value. To then turn around and try to charge \$3.25 per yard to a private individual is wrong. There is one individual in the room tonight who wants to dredge gravel off his own property. He had a \$7,000 bid to move approximately 3,000 yards. That was using a big hoe and moving it. But then he would have had to pay close to \$22,000 to the state to move 3,000 yards on land that he owns. Is that fair and consistent. Tell me that.

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**Clark Cox** said, yes, that is the price set by the regulation Chris quoted to you earlier. We have a statewide pricing guide. We did a market analysis back in 2006 and 2007 and that is the last time it was adjusted. That is the going rate. In response to a question from the audience as to who would really buy it at \$3.25, Mr. Cox said we have not sold gravel down here. Japp Creek is the only one. That is the only contract we have down here.

**Scott Ogan** stated that a little background on this, the state appraiser made that determination.

**Clark Cox** said he thinks they called about 100 gravel sale folks, contractors around the state.

**Dan Mahalak** asked Mr. Cox, you just said you did do a material sale contract for Japp Creek? Is that correct?

**Chris Nahorney** answered that she had not done one.

**Clark Cox** clarified that this was for the big boulders so they do not slide down the chute and plug it up. It was with Metco, I think.

**Dan Mahalak** said that the state has determined Japp Creek to be non-navigable.

**Clark Cox** commented that he did not remember the creek but they bought little to none. Maybe it was Lowell Creek.

**Dan Mahalak** said that this was why he had asked the question because incorrect information generates public anxiety.

**Tena Morgan** commented that she was feeling as though you do not really care if we have to pay \$3.25 a cubic yard for gravel. What we are here to do right now, what our board is here to do is to try to help people get some kind of flood control on their property. What you are telling us is that, "oh well, we decided it was \$3.25 and we do not care if you live in Seward and you have floods, that is just the way it is. That is what I am hearing right now and I am somewhat disappointed with that.

**Clark Cox** responded that he was sorry about that. His point, as Chris has said, is that we have a limited amount of authority. We go by the statutes and regulations that we are taxed with.

**Tena Morgan** said that she wants the state to care what happens to us here in Seward. That is why we are having this meeting and why we have a flood board. I

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want to believe while we are talking to you that we have to pay that kind of money when we cannot afford it to protect our property.

**Clark Cox** replied that he is here and that he cares.

**Jim McCracken** remarked that he thinks the panel needs to clarify somewhat the price of gravel, rip rap and everything that is being spoken to at different levels here. That is the royalty. That is gravel that is in the ground or rock that is on the ground. All the costs afterward, the excavation, the hauling can be up to another \$12 per yard. That is for material just laying out there in the river bottom is \$3.25 per yard.

**Bob White** brought up the e-mail address on the public announcement for the material sale contract for Chris Nahorney as being incorrect.

There was discussion about the address and the correct address was provided.

**Dan Mahalak** said he just wanted to follow up. It seems there is another creek that has been deemed navigable and that is Lowell Creek. Did you do a material sale contract for those boulders that came out of there? This is an important question.

**Chris Nahorney** said she has not personally done one but that she could check the record and see if one was done.

**Christina Stauffer** stated that the boulder contract that was being discussed most likely involved boulders that were on state uplands adjacent to Lowell Creek up the canyon beyond city land. This is what generated the contract. It was not on a navigable river.

**Bill Williamson** commented that a lot of the questions he had had already been answered here tonight. One confusion that the public might have is that the flood board instigated all this debate and brought it down on people. Before we could of our mitigation plans to do any gravel extraction or to do any work at all, we have to work with permitting agencies. We cannot get around that. We were trying to write the mitigation plan the right way and follow the laws the right way, to deal with the borough. We wanted to get things uniform for the public so it did not take 2 years to get a permit. Bill asked if there were any further questions.

**Bob Valdez** stated that the stupid part of this is paying to haul gravel. Why cannot you just flop the gravel over to build the banks up. It is not going to come back in from there. It comes down. That will save a lot of problems with gravel disposal. Right now you have to take that material 2 or 10 miles down the road or by barge or whatever. Who came up with that stupid regulation?

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**Clark Cox** replied that they have been throwing the term around, “put it to a beneficial use” and the way we cut that line is that when it leaves state land whether it is an upland source or a river bed, when it goes into the truck it leaves state land it leaves state ownership. So, if you are a private property owner, if you take that gravel and push it up onto private property like you are suggesting, it makes sense. But as soon as it is severed from state ownership and put on private property you are buying it. It is a straight forward rule that has to be consistent statewide so it is clear when someone has to pay and when they do not. If you just move the material within the creek bed there is no payment required.

**Randy Stauffer** said that it storing gravel within the floodway is not allowed.

**Bob White** added that this someone moving gravel from their property to their property. You are saying it is your property. That is the issue here. You are saying it is state land and we are saying it is ours.

**Bill Williamson** agreed that this needs to be sorted out. Hopefully by September we will have some answers for everybody here. We need answers because we have upcoming events. Right now it is not feasible for any of us to do any project whatsoever. We cannot afford it.

**Walter Sedlik** said that the panel keeps saying that Seward is special. We are a community on an alluvial plain. We are special. Who can make the decision to waive the 50 cents, because we are special.

**Mayor Dave Carey** answered that state code can make that differentiation. One of the things we are looking at is that because there is a Seward/Bear Creek Flood Service Area that there is a jurisdiction that people are paying into. We are looking at the possibility to use that as an opening to get a change in state law that any equal jurisdiction, like another flood service area would be the same treatment statewide.

**Chris Nahorney** said this issue is coming from Whittier and Valdez as well.

**Scott Ogan** stated that he would like to thank everyone for being civil. He would be angry too if he was in your situation. This has been a real decent crowd here. I do not have a personal bias one way or the other. I just want to try to get it solved. I am not the expert and have probably talked way over my pay grade tonight as to what is in case law. Fortunately those decisions will be reviewed by the department of law and whatever decision we make will be carefully reviewed by a number of people from different disciplines. I am a manager, not a scientist. Dan has been great to work with. He has answered every question we have and he was kind enough to take me around Seward. I came down on my day off one day and we spent the day and it was one of the most interesting days I have had in my career. There are really

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unique challenges here. The department of law has the final say but within my limited knowledge I gave you the best I know. DNR tries to look for common sense ways to solve these kind of problems. This might be the toughest challenge yet.

**Bill Williamson** asked one further question, if DNR does determine Salmon Creek is navigable will DNR now be responsible for the maintenance of it?

**Scott Ogan** replied that DNR does not maintain rivers. For example, on the Matanuska River, there were some dikes put in on the Matanuska River. ADOT is probably more concerned about protecting the roads and Alaska Railroad would protect the railroad. Technically there has to be a public purpose for those monies to be spent and when I was in the legislature we got an appropriation to build dikes in the Matanuska River and we had them form an LID to help pay for that. Later on it got wiped out from the capital appropriations.

**Christy Terry** said she had one more question. Since there is a potential for clouded titles, have you talked to your attorneys about the need to go through the evidentiary process. If you end up going to litigation with any of these property owners, there has to be some sort of discovery process. How will you handle that?

**Scott Ogan** replied that he hopes it will not go to litigation. Ultimately, like we said in the letter, ultimately a Court of Competent Jurisdiction or a recordable Disclaimer of Interest from the feds clears the title to a river and the feds do not have an interest in the rivers around here anymore. It is unlikely that this will happen. If there is litigation then discovery is discovery. Whatever we come up with at the end of the day will be on the table. It is already public record anyway. That is why I keep saying we will be fair and consistent and try to apply that morass of different criteria to make sure that the decision survives any test.

**Christy Terry** suggested looking at it another way. Why would people give you information to help you determine that you perhaps own more than what is under the ordinary high water.

**Scott Ogan** responded that information that would help them help me help you. If you have information that a major avulsion, a major flood, that this river at statehood was running here. During this 50 or 100 year event if the river moved and it is all running through our yards now, I need that. I cannot tell you what the outcome will be but chances are that it will help you more than hurt you. We can spend months looking for that stuff but if someone walks up we will consider it. It would make my life simpler, make your life simpler if we can.

**Bill Williamson** brought up Karla Backlund's situation. He said that the river ran way east of her house. We had a 2006 event and we had right around million cubic

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yards of material come down and filled in the whole area so it naturally threw the river right through the middle of her house. That is what you are looking for, is that correct?

**Scott Ogan** answered that he could not answer unequivocally without looking at the whole deal. None of this is real black and white and that is what makes it so tough. It makes it interesting and challenging professionally. There are a lot of “what ifs” on any of those things. For example, if it is in a known alluvial area, the state’s position is going to be that if that alluvial area is naturally caused is going to be state owned. We are going to decide what was there at statehood and then start peeling that onion back to make a determination.

**Bill Williamson** said he would like to thank everyone here tonight for coming and thank everybody for the input we have had. We have to go on with our meeting now.

Board members were reseated.

**H. CORRESPONDENCE & PAYMENT REQUESTS**

There were none at this time.

**I. PERMITS FOR REVIEW**

There were none at this time.

**J. OLD BUSINESS**

- **SBCFSA Flood Hazard Mitigation Plan**

**Bill Williamson** asked staff for a report on this.

**Christina Stauffer** reminded the board that updating the SBCFSA Flood Hazard Mitigation Plan had been requested by the borough as part of their update of their All Hazard Mitigation Plan. She explained that she had gone through page by page and updated the plan with goals that had already been accomplished. There are a few small corrections. The biggest change would be in reprioritizing the service area goals and that the board needed to approve this tonight to meet the borough time line.

**Bob White** reviewed the update page by page and suggested several corrections to it and made suggestions for additional notes.

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Discussion was held regarding the update, defining surge release flooding correctly, correcting events during the 2006 and 2009 floods and refining the language of the plan.

**Tena Morgan** said she would approve taking the words “surge release” out and said that she appreciated all the work done by staff on this. I am not completely familiar with all of the plan but I think this is great.

**Bill Williamson** called for a motion.

**Bob White** moved to approve the plan as amended.

The motion was seconded and unanimously approved.

- **USACE Planning for the States Grant**

**Dan Mahalak** reported that this was somewhat on hold trying to get comments back on the preliminary scope that we got from the Corps. I have been doing some follow up with the borough and city. The city has indicated their support and based on the remarks tonight by Mayor Carey, he is also in support of this. I will follow up with his office this coming week and get some specifics. We will put it in the packet for the assembly for their May 4<sup>th</sup> meeting which will be held here. If anyone wants to review it and has any comment they can make it at that time.

**K. NEW BUSINESS**

There was none at this time.

**L. INFORMATIONAL ITEMS AND REPORTS (No action required)**

- **Open SBCFSA Seat**

**Christina Stauffer** informed that board that the borough was advertising the open seat and was required to do so for three weeks.

**Bob White** said he might have someone interested in applying for the seat.

**M. PUBLIC COMMENT**

**Bob Valdetta** asked if the flood history in the SBCFSA Flood Hazard Mitigation Plan could include the significant damage incurred by the hatchery, IMS and the Sealife Center because they were all trying to get help with repairs and were

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mentioned in the disaster declaration.

**Steve Schafer** commented that he was glad to be able to have the discussion we had here tonight. He said he saw this as a very small piece of what is obviously a massive land grab by the state. If they are allowed to prevail it will have dire consequences not only here in the Seward area and statewide. Steve said he has had legal advice that the state does not stand on good ground on the patented land issue at least.

**Christy Terry** said she wanted to thank the flood board for bringing these folks down. This meeting is a good first step for putting the pressure on. Secondly she stated that she would bring the empty seat to the attention of the city council so we can get as many applicants as possible. She finished by saying that the board had

done a lot of work on your flood mitigation plan. It would be nice for the city to have an opportunity to look at the projects that you mentioned within the city limits and also have some comments so that we are working together. Christy commented on language regarding alluvial fans inside the city in the plan. It would be nice to have the council review this and possibly adopt it or at least have a motion to let the borough assembly know how the city feels and if there are any changes they want to recommend.

**Christina Stauffer** said she has already been asked to write resolutions for both the borough and the city as both would need to approve any plan update.

**Mayor Dave Carey** commented that once the borough budget is approved he would like very much to come back and work with the board, particularly the one grant that has me as a sponsor. I want to establish clearly, because I think we are looking at a political solution, not otherwise, is that this service area board along with Whittier and Valdez are putting effort into this grant. By putting some funding into that grant might help you get it. Also, I do not have a set amount for the legal reserve but I think it prudent that you absolutely keep that option open with regard to the budget that you bring to me. With regard to the Summit in Seward. I think that is a major thing. I plan to bring many people here. I cannot do it without your support and without the city's support, without the economic support. I am choosing the end of September because there are some weather issues that sometimes take place then. I want to bring people here. I hope you will be a cosponsor. Lastly, I read your budget and it said that enforcement of the regulations for floodplain development was basically inadequate. We need to work on that and I need your help on that. I do not believe that there should be any rules or laws that we do not enforce.

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**Bob Valdetta** stated that he wanted to remind the Mayor that there is a big fireman's convention at the end of September. Is that going to interfere with your plans? When is that exactly, does anyone know?

**Christy Terry** said she believed it started on the 28<sup>th</sup>.

Discussion was held about the best time and Mayor Carey agreed on early October.

**Dave Dieckgraeff** commented that the borough needs to look at this because the property values might go down if the state starts taking a lot of this land. Seward has to keep at this because it could cost jobs. We need private industry and we are losing it fast. Everyone cannot work for the city government. People need to be able to do something with their land or we might as well give it all to the state. People have to be able to use their land.

**N. BOARD COMMENT**

**Matt Hall** said that Christina usually puts down that he has no comment anyway.

**Walter Sedlik** stated he did not have any comments tonight other than to say he really appreciated the people that showed up from the state and the borough, the Mayor and everyone that was here. It was very important that we all have a chance to talk about this.

**Bob White** commented that he really appreciated the public being here. It appears that without an outcome of non-navigability that none of us here own property including inside the city limits. One of the things that I have battled with for quite some time was the product of the Floodplain Task Force. I do not think it is the appropriate solution and I will explain why. It does not solve anything. The solution, I think, is for the flood board to enter into a project to produce engineered foundations and a map that says which foundation goes where in the Seward area. This would allow private property owners whether they are in a high risk zone or not to still develop their property and maintain some sense of safety to eliminate Bear Creek Fire Department having to do a rescue and those sorts of things and also prevent catastrophic loss of homes and life. I think that the flood board, with the assets we have, can produce a flood risk map that more clearly and accurately depicts what those zones are and then engineering could be done to provide engineered foundations for the property owners to build to that standard. I think that is the most reasonable and sane approach to the problem.

**Tena Morgan** wanted to thank everyone. She also said she is excited about the Seward Summit. Tena said she really and truly believes that tonight we made some

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progress. I am not sure who will make the final determination here. No one seems to want to shoulder that. They just want to keep putting it off on this person or that and the court. I think that the people that came understand the flood board better and she was glad to make progress with that. She went on to thank Christina for all the hard work she has done on the mitigation plan. She agrees that the city and the borough should have their say about it.

**Bill Williamson** said he wanted to begin by thanking Randy Stauffer for his service for the past years to this flood board. He has put in a lot of time and I would really like to recognize it. Thank you very much, Randy. As far as the navigability goes, we have a long way to go but we did get some communication in and we did find it is pretty negative at times. But it is getting to the table and informed the public what the flood board has been going through for about five years now. They can see that all the answers indicate that you can get all the information you want but the state still owns it. I think a lot of people got better informed tonight. I want to thank the borough mayor for taking the time to come over. Thank you, Mr. Mayor, for all your hard work trying to help us.

**O. ADJOURNMENT**

**Tena Morgan** moved to adjourn the meeting.

The motion was seconded and unanimously approved.

**MEETING ADJOURNED at 9:25PM.**

**NEXT MEETING WILL BE MONDAY, MAY 3, 2010 AT THE  
SEAVIEW PLAZA BUILDING, SUITE 122 AT 7:00 PM.**

*Christina Stauffer*

Secretary

Minutes Approved: 3 May 2010

Date of Approval